

REMARKS

Claims 1 through 17 remain pending in this application. In response to the Office Action dated December 2, 2004, claims 1, 6 and 8 have been amended. Care has been taken to avoid the insertion of new matter. Favorable reconsideration of the application as amended is respectfully solicited.

Claims 1, 2, 4 through 12, 14, 15 and 17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,794,049 (Lindholm). In response, independent claims 1 and 8 have been amended. Claim 8 has been rewritten in dependent form to depend from claim 1. Thus, at present claims 2 through 5 and 8 through 17 all depend, either directly or indirectly, from claim 1. Claim 1 has been amended to recite, *inter alia*, the following:

A program execution device of executing a program described in a non-native code format of a prescribed language, comprising:

a compressed code storing portion storing a code of said program compressed on a prescribed unit basis;

an expanding portion connected to said compressed code storing portion for expanding said compressed code stored in said code storing portion;

. . .

an interpreter portion connected to said code storing portion for interpreting said expanded code for execution in said non-native code format (emphasis represents added text).

Independent claim 6, from which claim 7 depends, has been amended in similar manner.

Case law is well settled that anticipation, under 35 U.S.C. § 102, requires that each element of a claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781

(Fed. Cir. 1983); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1920 (Fed. Cir. 1989) *cert. denied*, 110 S.Ct. 154 (1989). The term "anticipation," in the sense of 35 U.S.C. § 102, has acquired an accepted definition meaning "the disclosure in the prior art of a thing substantially identical with the claimed invention." *In re Schaumann*, 572 F.2d 312, 197 USPQ 5 (CCPA 1978). The initial burden of establishing a basis for denying patentability to a claimed invention rests upon the examiner. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985); *In re Piasecki*, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984). To satisfy this burden as to the claims so rejected, therefore, each and every element recited by these claims must be shown by the Examiner to be disclosed in Davis. It is submitted that, for at least those differences discussed in detail below, no basis for anticipation has been established.

The Office Action states that Lindholm describes or suggests each of the claim elements. For reasons explained below, it is submitted that Lindholm does not disclose all recited elements of the amended claims.

Lindholm discloses a system for reducing the run-time memory needed for executing architecture neutral (AN) code (e.g., Java bytecode) that is downloaded from a server system. The AN code is downloaded and compressed to conserve memory. When memory is available, the AN code is compiled into architecture specific (AS) code (e.g., native code) and executed. The AS code may also be compressed to conserve memory. The Lindholm system may use various compression criteria to determine which methods (or program code units) to compress or decompress at run-time (see, e.g., col. 7, lines 66-67 to col. 8, lines 1-4).

Lindholm does not disclose or suggest that AN code can be compressed to conserve memory and then decompressed for interpreted execution, as required by independent claims 1

and 6. In contrast, Lindholm describes a system in which only AS code is executed after decompression (if necessary). Moreover, claim 1 has been amended to recite that the interpreter portion interprets non-native code format. It is submitted, therefore, that claims 1 through 5 and 8 through 17 are patentably distinguishable from Lindholm.

Dependent claims 3, 13 and 16 have been rejected under 35 U.S.C. § 103 as being unpatentable over Lindholm, in view of “Improving Code Density Using Compression Techniques” by Lefurgy et al. The Office Action relies on Lefurgy et al. to disclose the branch-less program code unit and compression ratio features recited in these dependent claims.

This rejection is respectfully traversed. As claims 3, 13 and 16 require all the limitations of parent claim 1, it is submitted that the dependent claims are also distinguishable from Lindholm. In addition, regarding the branch-less program code unit, Lefurgy is directed to a different problem, which is the difficulty of compressing a branch instruction itself. Lefurgy does not describe or suggest the concept of defining program code compression units based on the presence of a branch instruction. Similarly, regarding the compression ratio features, Lefurgy does not describe or suggest the use of compression ratio as one of the run-time compression criteria.

Accordingly, it is submitted that claims 1 through 17 overcome the rejections of record. Allowance of the application is respectfully solicited. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due

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in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Gene Z. Robinson", with a long horizontal flourish extending to the right.

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